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In re Application of
Harold Jay William
Application No. 09/509,301
Filed: March 23, 2000
Attorney Docket No. 11750-002001

OFFICE OF PETITIONS
Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely reply to the final Office action mailed October 1, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 1, 2004. A Notice of Abandonment was mailed June 14, 2004.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The instant petition lacks item (1).

In a non-provisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

- (A) a Notice of Appeal (and appeal fee)
- (B) an amendment that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance; or
- (C) the filing of a Request for Continued Examination (RCE).

See MPEP 711.03(c)(III)(A)(2).

As of this date, none of the above three acceptable forms of reply have been filed. The proposed amendment filed with the instant petition was sent to the examiner to determine whether it placed the application in condition for allowance. The examiner determined that the proposed amendment did not *prima facie* place the application in condition for allowance and was therefore an improper reply to the final Office action mailed on October 1, 2003.

Any renewed petition should be accompanied by a proper reply in the form of a Notice of Appeal or the filing of a RCE. If petitioner fails to reply in the form of a Notice of Appeal (and fee) or a

proper RCE, it may be construed as an intentional delay in presenting a grantable petition, which may adversely affect petitioner's ability to revive the abandoned application.

Petitioner may wish to note Office records indicate the name of the inventor is Harold Jay William. The name is listed on the declaration as "William, Harold Jay." The name is listed as JAY, William, Harold on the copy of the first page of the published International Application submitted with the original application. The inventor's name is listed as William Harold Jay on the instant petition. If the inventor's name is not Harold Jay William, petitioner may wish to file a petition under 37 CFR 1.182 to correct the name along with the request for reconsideration under 37 CFR 1.137(b). Any petition under 37 CFR 1.182 should be accompanied by a supplemental Application Data Sheet with the correct name for the inventor.

Per MPEP 503, an attorney docket number should not be longer than 12 digits not including hyphens and slashes which the Office can omit when entering the docket number into Office records. The attorney docket number listed on the instant petition is 11750-002001/2274032 /PO9462/97-MJC.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Petitions Attorney
Office of Petitions